United Nations A/61/737–S/2007/77

General Assembly
Security Council

Distr.: General
12 February 2007
English
Original: Spanish

General Assembly
Sixty-first session
Agenda item 100
Measures to eliminate international terrorism

Security Council
Sixty-second year

Letter dated 8 February 2007 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a statement issued by the Ministry of Foreign Affairs of the Republic of Cuba, dated 5 February 2007, concerning the fact that on 31 January 2007, the Government of the United States employed a new legal subterfuge to avoid indicting Luis Posada Carriles for what he really is: a murderer and a terrorist (see annex).

I should be grateful if you would have this letter circulated as a document of the General Assembly under agenda item 100, and of the Security Council.

(*Signed*) Rodrigo **Malmierca Díaz**
Ambassador
Permanent Representative

07-23490 (E) 130207 140207

Annex to the letter dated 8 February 2007 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General

Statement issued by the Ministry of Foreign Affairs of the Republic of Cuba

On 31 January 2007, the Government of the United States of America employed a new legal subterfuge to avoid indicting Luis Posada Carriles for what he really is: a murderer and a terrorist.

The people of Cuba will recall that on 15 January 2007, in response to the indictment of Luis Posada Carriles by the Government of the United States on 11 January 2007 on charges of naturalization fraud and making false statements in a naturalization proceeding, the Ministry of Foreign Affairs clearly stated its hope that "this indictment of the terrorist Posada Carriles for minor immigration offences will not be used as a smokescreen to allow him to go unpunished for the serious crime of terrorism".

The United States Government had until 1 February to file charges with Judge Philip Martinez of El Paso, Texas, to prevent the granting of the application for habeas corpus filed by the notorious terrorist's defence which, if granted, would have led to his release. It was therefore hoped that the United States Government would have indicted Posada Carriles by 1 February on charges of terrorism, concerning which, as indicated in the aforementioned statement by the Ministry of Foreign Affairs and reiterated once again today, it has "full knowledge and evidence".

Furthermore, on 5 October 2006, the Immigration and Customs Enforcement branch of the United States Department of Homeland Security informed Luis Posada Carriles that he would remain in federal custody because "you have a history of engaging in criminal activity and of associating with individuals and organizations that promote and use terrorist violence".

However, on 31 January 2007, the United States Attorney General's Office filed a motion for dismissal of the application for habeas corpus on the grounds of inadmissibility, alleging only that Posada Carriles is no longer in the custody of the Department of Homeland Security, which is responsible for United States immigration services, but in the custody of the Department of Justice, following the criminal proceedings initiated on 11 January 2007 for fraud and false testimony. In other words, the argument of the United States Government is that Posada Carriles cannot be released not because he is a terrorist, but because he is a liar.

The Ministry of Foreign Affairs wishes to remind the Government of the United States that article 7 of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed in Montreal on 23 September 1971 and to which the United States is a party, establishes that "[t]he Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution".

A similar provision is contained in the International Convention for the Suppression of Terrorist Bombings, which entered into force on 23 May 2001 and to which the United States is also a party.

On behalf of the Cuban people and the families of the victims, the Ministry of Foreign Affairs would like to remind the President of the United States, George W. Bush, that, on 26 August 2003 in St. Louis, Missouri, he himself said that "if you harbour a terrorist, if you support a terrorist, if you feed a terrorist, you're just as guilty as the terrorists".